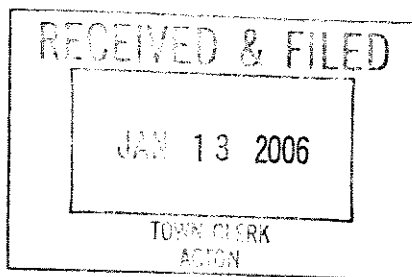




Planning Board



FYI

TOWN OF ACTON
472 Main Street
Acton, Massachusetts 01720
Telephone (978) 264-9636
Fax (978) 264-9630
pb@acton-ma.gov
www.acton-ma.gov

**Extension of
DECISION
01-06**

Village Arms Apartments
also referred to as the
Spring Hill Commons Apartment Complex

**Special Permit for Reconstruction of Nonconforming Multifamily Dwelling
January 12, 2006**

This is an extension by the Planning Board (hereinafter the Board) until January 10, 2008 of its special permit and decision #01-06 granted to GPT-Acton, LLC and filed with the Town Clerk on May 10, 2001 (hereinafter the Original Decision). This action is in response to the petition by Attorney Stephen R. Graham (the Applicant) on behalf of Equity Residential (now the property owner) for an extension of the Original Decision, or a finding that the original decision was "tolled" by pending litigation and therefore had not lapsed.

The Board granted the extension by unanimous vote at its regular meeting on January 10, 2006. Board members Gregory E. Niemyski (Chairman), Michael C. Densen, William F. King, Ruth M. Martin, Christopher R. Schaffner, Edmund R. Starzec, and associate members Alan R. Mertz and Bruce Reichlen were present. The minutes of the meeting and submissions, on which this decision is based upon, may be referred to in the Office of the Town Clerk or in the Acton Planning Department.

1 EXHIBITS

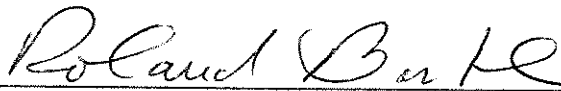
Submitted for the Board's deliberation were the following exhibits:

- 1.1 Letter from Steven R. Graham to the Planning Board, dated 12/15/05.
- 1.2 Letter from Steven R. Graham to the Acton Building Commissioner Garry Rhodes, dated 11/29/05.
- 1.3 Letter (e-mail) from Stephen Anderson, Acton Town Counsel, to the Building Commissioner dated 12/05/05.
- 1.4 The Original Decision.
- 1.5 Copies of miscellaneous documents and plans upon which the Original Decision relied upon.
- 1.6 Memo from Assistant Town Planner Kristin Alexander to the Board, dated 01/06/06.

2 FINDINGS, CONCLUSIONS and SUPPORTING CONSIDERATIONS

- 2.1 The special permit issued with the Original Decision expired on May 10, 2003 except for "good cause". It was issued under section 8.7 of the Acton Zoning Bylaw for the reconstruction of a nonconforming multifamily building previously demolished or destroyed by fire or other disaster. Under this section, an application for such a special permit must be filed within one year from the demolition or destruction. Thus, the Applicant could not file for a new special permit today, which makes this special permit different and unique from all other special permits that a person may seek under the Acton Zoning Bylaw.
- 2.2 The Original Decision requires that an application for a special permit extension must be filed with the Board at least 30 days prior to the expiry date. This requirement is hereby waived for the extension granted hereunder.
- 2.3 In the Original Decision the Board reserved its right and power to modify or amend the terms of the special permit.
- 2.4 The Original Decision requires that "all work and construction shall comply with Acton Board of Health regulations", which in this case encompasses regulations of the Massachusetts Department of Environmental Protection (DEP).
- 2.5 The Applicant reports that the owner of the property was in litigation with DEP regarding the issue of sewerage treatment, that only recently a judgment has been entered in the matter, and that a Consent Order with DEP will be formulated shortly to guide the implementation of the judgment. The Town was aware of but not involved in the ongoing litigation.
- 2.6 The Applicant could not have proceeded in compliance with the Original Decision without first coming to terms with DEP. Thus the Applicant has established "good cause" by reason of which the special permit has not lapsed or deserves an extension.
- 2.8 With this extension the Building Commissioner shall be authorized to issue a building permit for the subject property, provided there is also final approval from the Board of Health and DEP for the sewerage disposal.

Signed on behalf of the Acton Planning Board



Roland Bartl, AICP, Town Planner

Copies to:

Applicant
Town Clerk

Building Commissioner
Town Manager

Board of Health